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# Self-Defense AC

I value morality.

Permissibility is the default assumption. Kalef:

Justin Kalef [Professor of Philosophy, Vancouver Island University], Comment on “Shifting Burdens of Proof in Practical Ethics,” August 5, 2009. http://peasoup.typepad.com/peasoup/2009/07/shifting-burdens-of-proof-in-practical-ethics.htmlJMN

OK, I'll bite. My answers to the initial questions are as follows: 1) Yes, permissibility is the default assumption. 2) The reason why [permissibility] is the default assumption doesn't stem from an implicit assumption that anything like liberalism is true (unless 'liberalism' is defined \_very\_ broadly), but is rather the sort of reason that could and would be accepted even by people in a very conservative society that had never encountered liberal ideas. The reason, as I see it,is simply that everyday life requires us to do all sorts of things for which the moral rules we will have considered up to that moment will not have given us either explicit or implicit permission**.** Let's take, for example, Curator's decision to respond to Michael. Is that permissible?Suppose that we cannot assume that it is [permissible for Curator to respond to Michael], and that Curator has to first positively show (or determine) that it is. There doesn't seem to be a very general rule that actions of this type are permissible (sometimes, responding to certain people in certain ways is not permissible; and it would appear to be approaching impossibility to list, in the formulation of a rule, all the ways in which doing that might be impermissible). Furthermore, the action of writing a response to Michael involves many other actions, like typing an 'h' after a capital 'T', which are in some cases clearly not permissible (such as when typing in the 'h' after the capital 'T' is the code for launching a nuclear missile, etc.) Andwhen it comes to justifying this particular instance of typing these two letters together**, to what could one refer by way of justification other than** the fact that **it doesn't harm anyone** and doesn't do anything else wrong, **which [is the same as saying]** seems tantamount to saying that **it's permissible because the burden of proof** that it isn't **hasn't been met**? It seems to me that this reasoning would be readily accepted by non-liberals. And 3) the burden of proof should never shift away from permissibility.

The STANDARD is the practical view of self-defense defined by Frowe:

Hellen Frowe “A Practical Account of Self-Defence” Law and Philosophy (2010) 29:245-272 (Springer 09) FD

It [is] strikes me as a mistake to build our accounts of permissible defence around knowledge that Victim cannot have. How can these accounts tell Victim what he is permitted to do when he has less than perfect knowledge? And given that, in the circumstances in which defence arise, Victim will always have less than perfect knowledge, how can they play any real role in telling Victim what he is permitted to do in selfdefence? These cases of ‘full and accurate knowledge’ are by their very nature artiﬁcial: the assumption on which they rely will always be false. This is not to say that Victim will always be mistaken about the facts. Rather, it is to say that at best Victim can have a reasonable belief about those facts. He can predict, perhaps accurately, the way in which events will unfold. But that one’s prediction turns out to be true does not equate to the claim that one knew what was going to happen. The myth of full and accurate’ knowledge that underpins existing accounts of permissible defence is just a myth, and can hardly be the best starting point for the correct account of permissible defence.

Negative arguments about why the aff doesn’t meet proportionality and imminence requirements are not offense under my standard because

A] The practical view doesn’t require us to assess that. As a victim deliberating, a *reasonable* belief that your life is in danger is sufficient.

B] Raising the epistemic bar makes self-defense impossible to live by and violates the practicality principle. Frowe-2:

**What it is reasonable to expect a person to ﬁnd out before performing an action must fall within the limits of what it is possible for her to ﬁnd out compatible with performing that action. Raising the epistemic bar any higher will generate an impossibility within self-defence,** since meeting those standards will preclude meeting the necessity condition.

The neg can read any alternative they want but in order to link to my view of self-defense they must read evidence that the victim knows that the available alternative is successful.

The negative’s burden is to prove it’s unreasonable for the victim to think that their life is in danger.

Prefer the practical view of self-defense for four reasons.

A] Ought implies can – that is, obligations assume possibility. Streumer, Bart. Reasons and Impossibility, 2004.

The argument from tables and chairs. There cannot be a reason for a table or a chair to perform an action, because it is impossible for a table or a chair to perform an action. When it is impossible for a person to perform an action, this person is in the same position with regard to this action that a table or a chair is in with regard to all actions. Therefore, just as there cannot be a reason for a table or a chair to perform an action, there cannot be a reason for this person to perform this action. And therefore, (R) is true.

The right to self-defense follows from “ought” implies “can.”

Jeremy Waldron:  
*88 Cal. L. Rev. 711 (2000)*. Self-Defense: Agent-Neutral and Agent-Relative Accounts, Waldron, Jeremy [NYU School of Law]. 722-23.

In his earlier work, De Cive, Hobbes coupled the argument we have just considered with another one concerning the irresistibility of the urge to survive. There is, he argues, in every individual a certain threshold of fear such that "[w]hen a man is arriv'd to this degree of fear, we cannot expect but [that] he will provide for himself either by flight, or fight."3 This is an expectation not only of reasonableness but above all of "natural necessity." It arises from the fact that on Hobbes's view **we are** mechanisms **programmed to resist the immediate evils of death and bodily debilitation. So a contract not to defend oneself is void not only because it is unintelligible, but also because it involves a promise to perform the impossi- ble**: "Since... no man is tyed to impossibilities; they who are threatened either with death, (which is the greatest evil to nature) or wounds, or some other bodily hurts,and are not stout enough to bear them, are not obliged to endure them."35 To be "tyed to impossibilities," Hobbes says, "is contrary to the very nature of compacts.36 **Since "ought" implies "can," it is not the case that anyone ought to endure a threat of death without resistance, and therefore no covenant could possibly generate such an obligation. Moreover, such impossibility inevitably affects the view that the parties to such a covenant would take of its performance**. It is part of the Hobbesian background that the character of human motivation is well known. **So no one to whom such a promise of nonresistance was made could possibly have an expectation of its being fulfilled**. From the point of view of the promisor, the alleged promise would be equally mysterious. Given the common knowledge just mentioned, **there would be nothing to be gained by such a covenant to do the impossible**. No one would plausibly give anything in return for such a hollow undertaking.

This also impacts to any theory of contract, agreement, or social rules because a system that prohibited self-defense would be pointless.

Also, to meet ought implies can they must show what the morally obligatory action is. If I’m the only one defending an option, and ought implies can, this option must be morally permissible.

B] The right to self-defense stems from the absolute right not to be killed. Wallerstein:

Shlomit Wallerstein [Fellow and Tutor in Law at St. Peter's College of the University of Oxford]. “Justifying the Right to Self-Defense: A Theory of Forced Consequences,” Virginia Law Review. 2005. RK

Starting from the premise of an absolute unqualified right not to be killed, it follows that self-defense, as a derivative right, must be an absolute natural right as well. This is so because without an absolute right to self-defense the right not to be killed can hardly be regarded as a right, as it provides its owner no effective tools to protect it. Self-defense plays a major role in resisting the direct imminent unjust threat posed by an aggressor. It also has an additional role in the defense against an indirect threat to autonomy, a threat that is generated by the fear and instability that the lack of such a right would bring about. It constitutes one of the basic conditions that allow people to live together in society. One of the reasons 2. Thus, the right to self-defense can be partly explained by reason of its implications for autonomy. No matter how comprehensive the rules of a given society are, there will always be situations where one is unable to turn to the community for help. Unless the possibility to defend oneself is recognized in these situations, the risks associated with living in a society would increase. Many people would devote their lives to creating conditions that would ensure their survival instead of promoting their autonomy in other ways. Given that life is a precondition of (or at any rate, closely connected to) autonomy, the protection of these two interests is inseparable; even if we justify the right of self-defense in terms of defending one’s life from an imminent unjust threat, the defense of life is, inter alia, a defense of autonomy. That is to say, defending one’s life is defending one’s autonomy.

C] Deadly force in self-defense is uncontroversial. Kaufman:

Whitley R. P. Kaufman [Department of Philosophy University of Massachusetts], "Justified Killing: The Paradox of Self-Defense" Lexington Books (2009) FD

**Self Defense is universally accepted as a paradigm of the permissible use of deadly force**, yet moral philosophy has yet to articulate a convincing rationale for its legitimacy. **The unanimous consensus as to the permissibility of killing in self-defense is itself remarkable given that every other category of killing arouses intense moral and political controversy.** Our society passionately debates the morality of the death penalty, abortion, enthusiasm, suicide and war; even the killing of animals has become an area of intense moral controversy in recent decades. Yet self-defense is the one striking exception to the controversy over killing, for there have been no serious challenges to its legitimacy**.** Whatever debates there are about self-defense tend to be about how to apply it (whether retreat is required) and thus presuppose rather than question its basic justification. **Even pacifists**, staunchly opposed to war, **have** typically **not questioned the legitimacy of personal self-defense,** notwithstanding the fact that most wars tend to be rationalized in terms of national self-defense. But we still lack an account of whyself defense is so different, the one case where killing is taken as not only uncontroversial but positively morally justified- indeed even celebrated

The fact everyone agrees to it means you should accept it because it is intuitive, and intuitions are the starting point for morality b/c some beliefs are non-inferentially justified. These are intuitions. Parfit:

Derek Parfit, On What Matters (draft: July 10, 2010), 697.

**We may not be able to prove that our normative** epistemic **beliefs are not illusions. We may also be unable to prove that [or] we are not brains in a vat, or being deceived by some demon. But if we claim less than absolute certainty, we can justifiably reject such skeptical views. In arguing that we can know some normative** epistemic **truths, we must appeal to some of these truths. We must claim that we have reasons to believe that we can respond to reasons. Such arguments are in one way circular, but that does not make them fail. Any justification must end somewhere. Justifications of beliefs can best end with intrinsic credibilities and decisive epistemic reasons. We do not have to show that we have further reasons to believe that we have these reasons, and further reasons to believe that we have these further reasons, and so on for ever.** Some beliefs seem indubitable, and we seem to have decisive reasons to accept many other beliefs. Nor do we seem to have any strong reason to doubt that we do have such reasons. Given these facts, if we can understand how it *might* be true that we are responding to such reasons, we can justifiably believe that we *are* responding to such reasons. We can justifiably believe that there are some truths about what we ought to believe, and that we know some of these truths.

D] Morality must guide deliberation: it has to be able to tell the Victim what he is permitted to do in the circumstances of his decision. This is necessary because morality is about the rightness and wrongness of choices. It doesn’t apply to inanimate objects and tornadoes because they don’t have to make morally significant choices. So, morality has to guide deliberation. Killing in self-defense is therefore permissible because, if the agent reasonably believes that killing is the only option, then the only reasonable result of deliberation is deadly force.

E) Every ethical theory agrees – there is no moral theory for which self-defense is impermissible. Kaufman-2

Whitley R. P. Kaufman [Department of Philosophy University of Massachusetts], "Justified Killing: The Paradox of Self-Defense" Lexington Books (2009) FD

What is perhaps even more surprising is the widespread lack of attention to this problem. If one glances at any standard introductory textbook in ethics, one is likely to see chapters on all the classic topics regarding killing: capital punishment, abortion, enthusia, and so forth. Yet such books do not as a ruleinclude a chapter of self-defense. And in moral philosophy more generally there has long been a strange neglect of [self-defense].this topic on all sides**. Both major school of moral philosophy,** deontology and Consequentalism**, have usually ignored self- defense all together, as have the other schools of ethics,** apparently **taking it as so obviously justified that they need not attempt to explain why it is.]**

We should give equal weight to judgments by epistemic peers, so if everyone disagrees with you, you should think you’re wrong. Adam Elga:

Adam Elga [Princeton], “Reflection and Disagreement,” *Noûs* 2006.

**You and a friend are to judge the same contest, a race between Horse A and Horse B. Initially, you think that your friend is as good as you at judging such races.** In other words, you think that in case of disagreement about the race, the two of you are equally likely to be mistaken. The race is run, and the two of you form independent judgments. **As it happens, you become confident that Horse A won, and your friend becomes equally confident that Horse B won**. **When you learn of your friend’s opposing judgment, you should think that the two of you are equally likely to be correct. For suppose** not— suppose **it were reasonable for you to be, say, 70% confident that you are correct. Then you would have gotten some evidence that you are a better judge than your friend, since you would have gotten some evidence that you judged this race correctly, while she misjudged it. But that is absurd.** It is absurd that in this situation you get any evidence that you are a better judge (Christensen 2004, Section 4). To make this absurdity more apparent, suppose that you and your friend independently judge the same long series of races. You are then allowed to compare your friend’s judgments to your own. (You are given no outside information about the race outcomes.) Suppose for reductio that in each case of disagreement, **[If] you should be 70% confident that you are correct. It follows that over the course of many disagreements, you should end up extremely confident that you have a better track record than your friend. As a result, you should end up extremely confident that you are a better judge. But** that is absurd. **Without some antecedent reason to think that you are a better judge, the disagreements between you and your friend are no evidence that she has made most of the mistakes.** Furthermore, the above judgment of absurdity is independent of who in fact has done a better job. Even if in fact you have judged the series of races much more accurately than your friend, simply comparing judgments with your friend gives you no evidence that you have done so. Here is the bottom line. When you find out that you and your friend have come to opposite conclusions about a race, you should think that the two of you are equally likely to be correct. **The same goes for other sorts of disagreements.**

This means you can automatically exclude any framework that makes self-defense impermissible.

F) The right to self-defense is necessary to resist oppression, and oppression must always be bad under any ethical framework. Flax:

Jane Flax, [Professor of Political Science at Howard University], “Race/Gender and the Ethics of Difference”, Political Theory Vol. 23 No. 3, August 1995, RK

Constructive debate about moral principles and standards of judgment requires the prior development of trust. Trust cannot develop unless each participant gives as full an account as possible for her particular commitments and acknowledges their potential for partiality, error, or harm. That each person’s locations necessarily shape and limit our view must be acknowledged. Without open acknowledgment of this and its potential problems, the others have every right to remain suspicious. Unless the critic takes responsibility for the complexity of her own motives and locations, she is not approaching others from a position of respect and equality. Denial of difference renders claims of solidarity suspect. This is especially likely for those who rightfully cannot trust people who see themselves as outside our own relations of injustice. Commonality must be a result of open, mutual struggle; it cannot be assumed. The possibility of just practices depends on fuller recognition of our differences and their often tangled and bloody histories. Until there are honest acknowledgements of our differences, hatreds, and divisions, and the multiplicity of positions as oppressor and oppressed, the call for unity can only be read as a wich to control others and a willful act of denial of the past and current conflicts that pervade the contemporary United States. Until there are fundamental redistributions of power among races, genders, and sexualities, the cry of “too much difference” must remain suspect. Justice is undermined by domination, not difference. To have mutual futures, we must cultivate new, unplatonic loves: of diversity, conflict, and that which is not shared in common.

**If we don’t actively fight discrimination and exclusion, philosophy becomes less of a moral system and more of a tool of domination used by those in power. Any moral system that does not say we can resist oppression must be rejected.**

My advocacy is that it is reasonable for victims of repeated domestic violence to believe that deadly force is necessary for self-preservation.

Killing is the only option b/c women are trapped in a web of abuse --- no other choice. Johnson 08

Joan B. Kelly and Michael P. Johnson, “DIFFERENTIATION AMONG TYPES OF INTIMATE PARTNER VIOLENCE: RESEARCH UPDATE AND IMPLICATIONS FOR INTERVENTIONS”, FAMILY COURT REVIEW, Vol. 46 No. 3, July 2008 476 –499. RK

The Violent Resistance that gets the most media attention is that of women who murder their abusive partners. The U.S. Department of Justice reports that, in 2004, 385 women murdered their intimate partners (Fox & Zawitz, 2006). Although some of these murders may have involved Situational Couple Violence that escalated to a homicide, most are committed by women who feel trapped in a relationship with a coercively controlling and violent partner. In comparing women who killed their partners with a sample of other women who were in abusive relationships, Browne (1987) found that there was little about the women that distinguished them from those who had not murdered their partners. What distinguished the two groups was found in the behavior of the abuser. Women who killed their abusers were more likely to have experienced frequent attacks, severe injuries, sexual abuse, and death threats against themselves or others. They were caught in a web of abuse that seemed to be out of control. Seventy-six percent of Browne’s homicide group reported having been raped, 40% often. Sixty-two percent reported being forced or urged to engage in other sexual acts that they found abusive or unnatural, one-ﬁfth saying this was a frequent occurrence. For many of these women, the most severe incidents took place when they threatened or tried to leave their partner. Another major factor that distinguished the homicide group from women who had not killed their abusive partners is that many of them had either attempted or seriously considered suicide. These women felt that they could no longer survive in this relationship and that leaving safely was also impossible. These ﬁndings are conﬁrmed in a recent study of women on trial for, or convicted of, attacking their intimate partners (Ferraro, 2006). The dominant image of women who kill their partners presented by the media is one in which a desperate woman plans the murder of a brutal husband in his sleep or at some other time when she can catch him unawares. In reality, most of these homicides take place while a violent or threatening incident is occurring (Browne, Williams, & Dutton, 1999, p. 158). Although a few of Browne’s (1987) cases involve a plot to murder the abuser, or a wait following an assault for an opportunity to attack safely, the vast majority took place in the midst of yet another brutal attack (see also Ferraro, 2006). A few were women using lethal violence in reaction to a direct threat to their child.

And, most cases are imminent threats of death. Dowd:

Michael Dowd, [Director, Pace University Battered Women's Justice Center. J.D., St. John's Law School], “Dispelling the Myths About the “Battered Woman’s Defense:” Towards a New Understanding”, Fordham Urban Law Journal, Vol. 19, Issue 3, 1991. RK

Interestingly, scholars disagree on the frequency of of the occurrence of killings in non-confrontational settings. While many believe that most attacks by battered women are in fact non-confrontational, statistics indicate otherwise. See Maguigan, supra note 20, at 384. ("[O]ver seventy percent of all battered women who kill do so when faced with either an ongoing attack or the imminent threat of death or serious bodily injury; and some studies suggest that the figure may be closer to ninety percent.") (Citation omitted). Regardless of this debate, practitioners must be prepared to deal with the problems posed in cases where the woman has killed her abuser in situations which may not appear to fall within the constraints of imminence.

And, confrontational homicides are topical --

Deliberate does not rule out confrontational killings --- all it requires is to knowingly cause the death of another despite the time period. Ulrich:

Justice Robert Ulrich [Missouri Court of Appeals], “State v. Miller”

"A person commits the crime of [murder in the first degree](http://www.duhaime.org/LegalDictionary/F/FirstDegreeMurder.aspx) if he knowingly causes the death of another person after deliberation upon the matter. **Deliberation** required for conviction for [murder in the first degree](http://www.duhaime.org/LegalDictionary/F/FirstDegreeMurder.aspx) **is defined as cool reflection for any length of time no matter how brief. The deliberation** necessary to support a conviction of [first-degree murder](http://www.duhaime.org/LegalDictionary/F/FirstDegreeMurder.aspx)**need only be momentary**; it is only necessary that the evidence show that the defendant considered taking another's life in a deliberate state of mind. A deliberate act is a free act of the will done in furtherance of a formed design to gratify a feeling of revenge or to accomplish some other unlawful purpose and while not under the influence of violent passion suddenly aroused by some provocation. Deliberation may be inferred from the circumstances surrounding the murder."

More evidence -- instantaneous killing is still referred to deliberate. Justice Heavican:

Justice Heavican [Supreme Court of Nebraska], “State v. McGhee”, 2007. FD

"*Deliberate* means not suddenly, not rashly, and requires that the defendant considered the probable consequences of his or her act before doing the act. "The term *premeditated* means to have formed a design to commit an act before it is done. "One kills with premeditated malice if, before the act causing the death occurs, one has formed the intent or determined to kill the victim without legal justification. "No particular length of time for premeditation is required, provided that the intent to kill is formed before the act is committed and not simultaneously with the act that caused the death. The time required to establish premeditation may be of the shortest possible duration and may be so short that it is instantaneous, and the design or purpose to kill may be formed upon premeditation and deliberation at any moment before the homicide is committed. A question of premeditation is for the jury to decide."

And, violence is inevitable because the resolution is a case of kill or be killed --- majority of deadly force is necessary to avoid retaliation. Ayyildiz:

Elizabeth Ayyildiz, [J.D.,Chicago-KentCollegeofLaw,1995;B.,UniversityofVirginia,1991.], “WHEN BATTERED WOMAN'S SYNDROME DOES NOT GO FAR ENOUGH: THE BATTERED WOMAN AS VIGILANTE”, JOURNAL OF GENDER & THE LAW, Vol. 4, 1995.

To some, the death of the abuser may seem an inappropriate or excessive way for the battered woman vigilante to punish her abuser and repair the social order. Deadly force on the part of the battered woman, however, may be justified in several ways. First, death may be necessary because lesser degrees of force may be insufficient. The battered woman may not be able to confront the batterer without a deadly weapon because of disparities in size, [and] strength or emotional control. The lower degree of force a woman typically exerts upon a man may have little or no impact on a physically stronger abuser. Indeed, a woman's lesser degree of force may only incite a vicious retaliation by the abuser**.**

And, the right to self-defense also extends to other harms besides death. Kasachkoff:

Tziporah Kasachkoff, [Professor of Philosophy at Ben Gurion University of the Negev & The Graduate Center, The City University of New York] “Killing in Self-Defense: An Unquestionable or Problematic Defense?”, Law and Philosophy, Vol. 17, No. 5/6 (Nov., 1998), pp. 509-531, RK.

The central issue in justified self-defensive homicide, then, is whether one acted to protect oneself. But what is it about ourselves that may legitimately be defended at the cost even of another person's life? Most clearly, a right of self-defense is a right to protect ourselves from being killed: if anything counts as protection of self, it is protection of our continued existence. But, as well, our notion of self extends beyond mere survival. **There are certain sorts of harms that so intrude on the integrity of one's self - the harms**, say, **of serious maiming, or of rape, or of kidnapping or of enslavement - that even when one is absolutely certain that one will not be killed it is unreasonable to disallow the same justifying appeal to self-defense that is accorded to would- be victims of lethal assaults.** Were we to kill someone who, though he isn't trying to kill us, is attempting to deafen and blind us, or to completely paralyze us, or to lobotomize us, our killing our attacker would still count as a legitimate killing in self-defense because of the seriousness of these assaults on one's person and because, in the words of Richard Norman, **they are 'closest to the case of a threat to one's life, because the danger with which the person is threatened is**, or may be, **similarly final and irreversible.**'4 No doubt, there are some grey areas here.5There is certainly room for disagreement, for example, about whether an attack on one's property by a burglar or the amputation of one's fingers by an attacker is sufficiently critical that self-defense is a reasonable justification for killing the burglar or attacker. But there is no doubt, too, that not all cases come in shades of grey. Neither common morality nor the law expects you to sacrifice your life rather than take the chance of killing your attacker, but neither are you required to lose your limbs, or your hearing or your eyesight even when the only way to protect yourself from the person who is intent on destroying one of these is to kill him. In short, **self-defense extends to parts of yourself that are integral to you; your life is important, but it does not comprise all that is important** or importantly defended, **even by recourse to homicide.** Of course, it may be that the extent to which the gravity of a prospective injury must be taken into account before self-defensive homicide is morally justified may be dependent on other features of the situation. Later I shall suggest that this is so, and why.

An intersection of power hierarchies of race, class, gender, and sexuality prevents victims from accessing alternative means of safety such as social services and shelters. Bograd:

Michele Bograd, [PhD, Psychologist] “STRENGTHENING DOMESTIC VIOLENCE THEORIES: INTERSECTIONS OF RACE, CLASS, SEXUAL ORIENTATION, AND GENDER”, Journal of Marital and Family Therapy, July 1999,VOl.25, NO.3. RK

Furthermore, when certain groups are not deemed “legitimate” victims, services may be scarce or nonexistent, and access to and the nature of available services may be strongly influenced by social location. There are few services for battered husbands, and responses to female heterosexual batterers may be insensitive to the woman’s own victimization (Hdmberger & Potente, 1997). Programs for gay and lesbian batterers and their victims may not be funded in some states because sodomy is still considered a crime, and public hate crimes, much less domestic violence, remain unaddressed. Many clinics do not have bilingual services, severely hindering non English speaking women from obtaining safety. A disproportionate percentage of court-referred batterers in urban areas are men of color, but there are few racially specific programs with experienced minority staff (Gondolf, 1997; Williams, 1994; Williams&Becker, 1994). In efforts to bridge cultural gaps, minority clients are assigned to inexperienced paraprofessionals of their own culture, who themselves lack power in institutional systems. Social service providers may respond to different kinds of victims in frankly punitive and discriminatory ways. While sometimes this is intentional, often service providers enact the prejudicial and unintended consequences of well-meaning social, legal, or clinical policy. Some battered women advocates report that judges have asked the batterer to interpret for the non-English speaking battered woman; more progressive judges have refused to proceed legally in the absence of a neutral interpreter, thus denying the women services. Battered women can lose custody of their children once it is learned that children have witnessed domestic violence, and children have been remanded to the care of the batterer, who appears to offer a more stable home than the mother does once she flees to shelter (Geffner, 1997). Some shelters do not permit adolescent boys. Abattered woman must choose between not seeking safety for herself or leaving sons at home, opening herself to charges of desertion. Crenshaw (1994) describes how immigration policy unintentionally trapped battered women with their abusers when a ruling decreed that length of marriage was one of the preconditions for legal papers. After outcry from the battered women’s movement, the policy was amended so that exceptions to cohabitation were made upon testimony by social service personnel. But because of cultural and linguistic barriers, women most vulnerable to abuse (such as immigrants or undocumented refugees) often lack access to services necessary for that protection.

Now, preempts for the intuitions debate.

First is answers to intuitions are unreliable:

[A] I defend a form of revisionary intuitions - this de-links their objections about reliability because we should revise our theories to make them more reliable

[B] D.B. either 1) intuitions are unreliable b/c it can’t be verified but neither can our mental states then. Their arg commits them to radical skep. . Or 2) don’t defend radical skep – which means their objection is non-unique and you accept intuitions]

Second is answers to not everyone agrees.

Just as we can’t persuade someone who is colorblind that red looks more like orange than it looks like blue, doesn’t mean that our intuition is suspect. Just means you are dealing w/ an anomaly.

Third is answers to intuitions are subjective.

A) misunderstanding of intuition. – just a means of cognizing moral truths. Does not create moral truths, any more than perception creates truths about physical world.

B) non-unique – true of all kinds of beliefs - justification for perceptual beliefs depends upon one’s perceptual experiences. Justification of beliefs depends upon one’s memories.

And, we ought to give concrete intuitions more credence than abstract moral theories. McMahan:

McMahan, Jeff. “Moral Intuition,” Blackwell Guide to Ethical Theory (1999)

It is important to be clear about the nature of this challenge. The claim is not simply that intuitions often strike us as more obvious or less open to doubt than it seems that any moral theory is. By itself, this would not be a strong consideration in favor of the intuition. The theories of modern physics tell us that many of our common sense beliefs about the nature of the physical world are mistaken.Many of these beliefs seem overwhelmingly obvious while the theory that disputes them may be so recondite and arcane as to be unintelligible to all but a few. Yet most of us recognize that at least certain scientific theories that overturn aspects of our common sense conception of the physical world are so well established by their powers of explanation and prediction and by the control they give us over the forces of nature that we readily acquiesce in their claims and concede that our common sense views must be illusory. If a moral theory could command our allegiance by comparable means of persuasion, we might yield our intuitions to it without demur, even if it had none of the immediate obviousness in which our intuitions tend to come clothed. But the challenge to the Theoretical Approach is that no moral theory, at least at the present stage of the history of philosophical ethics, can have anything like the authority or degree of validation that the best supported scientific theories have. The lamentable truth is that we are at present deeply uncertain even about what types of consideration support or justify a moral theory. There are no agreed criteria for determining whether or to what extent a moral theory is justified. So when an intuition, which may be immediately compelling, comes into conflict with a moral theory, which can have nothing approaching the authority of a well grounded scientific theory, it is not surprising that we should often be profoundly reluctant to abandon the intuition at the bidding of the theory. We can, indeed, be reasonably confident in advance that none of the moral theories presently on offer is sufficiently credentialed to make it rationally required that we surrender our intuition.

Metaethical claims about the existence or normative force of morality are pointless. Morality does not need any external foundation. David Enoch explains Scanlon’s view:

Enoch, David. [Professor of Philosophy at Hebrew University], “Against Quietism,” early version of Taking Morality Seriously. Oxford, 2011.

A similar point may be made in a more general ontological context. Thus, Scanlon has recently put forward a more detailed ontological discussion, where he argues that in general – not just in the metanormative context – the answers to existence questions are fully determined by the standards internal to the relevant domain, so long as no conflicts are generated with other related domains. Thus, numbers exist, and all that it takes for numbers to exist is that claims quantifying over them are licensed by the internal standards of mathematical discourse, together with the absence of any conflict with some other domain (like the scientific, empirical one). Witches do not exist, because even if claims quantifying over witches are licensed by the standards internal to witch discourse, conflicts are generated with the general empirical, scientific discourse (because witch discourse licenses causal claims, or claims that have causal implications). Getting back to the normative, then: All that it takes for normative reasons to exist is that claims quantifying over them are licensed by the standards internal to normative discourse, and that no conflicts arise between normative discourse and the standards internal to some other domain, like the empirical scientific one. But these conditions are rather obviously met, and so normative reasons exist. But, on this anti-metaphysical (or perhaps metaphysically minimalist) view, putting forward this metaphysically-looking claim – that reasons exist – just comes down to claiming that some normative statements are (perhaps nonreductively) true. Nothing more metaphysical needs or indeed can be said or done. Such a view is perhaps not quietist through and through: Scanlon does not deny the coherence or even interest of some metanoramtive discussions and arguments, and he engages them himself. But it is at least quietist (in a sense) about the more metaphysical parts of metanormative discourse.

And, they can’t rely on legal avenues. Vickers:

**Vickers,** Lee. 1996 "The Second Closet:Domestic Violence in Lesbian and Gay Relationships: A Western Australian Perspective." http://www.murdoch.edu.au/elaw/issues/v3n4/vickers.html?fb\_page\_id=5687159900&

The reluctance of the police to intervene in 'private domestics' has been well documented by the women's domestic violence movement. Add homosexuality, heterosexism, and homophobia to the equation and police reluctance to intervene escalates. In some respects this is not surprising when it is considered that in some jurisdictions laws outlawing sodomy are still on the statute books and the police are obliged to enforce the law. Thus, the problem of police attitudes extends much further than individual police. At the heart of **the problem is institutionalised homophobia and heterosexism**. Gay and lesbian victims of domestic violence cite a range of reasons why they are reluctant to enlist police support: **The police say that they can't tell who the abuser is, despite often clear physical evidence of injury.**[50] **Police take the attitude that two men 'duking it out' is not domestic violence, just two men fighting.**[51] The police **[They] do not treat the matter seriously because the relationship is homosexual and** try to **mimick the violence**.[52] In the words of one gay male victim: "My opinion of the police is the same as most other gay men. I'd never have gone to them in a million years. They treat gay violence as a huge joke."[53] They will be ridiculed or harassed by police because of their homosexuality.[54] A general reluctance to report domestic violence because of the history of conflict between the police and the lesbian and gay community including a history of unprovoked violence by the police against lesbians and gay men.[55] Police disbelief that a woman can batter another woman.[56] **The police treat gay and lesbian domestic violence as 'mutual fighting' and** try to **calm the parties rather than ensure the safety of the abused party** by pursuing a pro arrest policy.[57] Involving the police risks being 'outed'.[58] The issue of risking alienation from the gay and lesbian community, particularly given the denial surrounding same sex domestic violence and prevailing attitudes towards the police.[59] The women's domestic violence movement has been active in advocating for a more interventionist and educated police approach to domestic violence. The police have been encouraged to treat domestic violence as a crime rather than a 'relationship iss ue'.[60] Police Domestic Violence Units have emerged largely as a result of the efforts of the women's domestic violence movement. However, there appears to be little evidence that the education of police has extended to education about homophobia or the issue of lesbian and gay domestic violence.]

The court system is unjust. Hodges:

Krisana M. Hodges, [Tulane School of Law, J.D., 2000. Professor of Law and Sexuality at University of California, Hastings College of the Law], “Trouble in Paradise: Barriers to Addressing Domestic Violence in Lesbian Relationships”, 9 Law & Sexuality Rev. Lesbian Gay Bisexual & Legal Issues, 311 2000. RK

**Lesbian battered women who seek protection from** these **courts** **risk being victims oft he homophobia that infects the legal system.** **One of the most dangerous examples of this exists in states with sodomy laws criminalizing homosexual sexual activity**.73 In these states, **lesbian battered women who come forward are put in the difficult position of first admitting to criminal acts in order to prove that they are in fact victims of domestic violence**.7 4 **Even when states no longer enforce their sodomy statutes, the laws often remain on the books to validate a hostile environment in the courts**, "their very existence sends a clear message to the battered gay man or lesbian: Within this court, *you* are the criminal."7]

And, the right to self-defense also extends to other harms besides death. Kasachkoff:

Tziporah Kasachkoff, [Professor of Philosophy at Ben Gurion University of the Negev & The Graduate Center, The City University of New York] “Killing in Self-Defense: An Unquestionable or Problematic Defense?”, Law and Philosophy, Vol. 17, No. 5/6 (Nov., 1998), pp. 509-531, RK.

The central issue in justified self-defensive homicide, then, is whether one acted to protect oneself. But what is it about ourselves that may legitimately be defended at the cost even of another person's life? Most clearly, a right of self-defense is a right to protect ourselves from being killed: if anything counts as protection of self, it is protection of our continued existence. But, as well, our notion of self extends beyond mere survival. **There are certain sorts of harms that so intrude on the integrity of one's self - the harms**, say, **of serious maiming, or of rape, or of kidnapping or of enslavement - that even when one is absolutely certain that one will not be killed it is unreasonable to disallow the same justifying appeal to self-defense that is accorded to would- be victims of lethal assaults.** Were we to kill someone who, though he isn't trying to kill us, is attempting to deafen and blind us, or to completely paralyze us, or to lobotomize us, our killing our attacker would still count as a legitimate killing in self-defense because of the seriousness of these assaults on one's person and because, in the words of Richard Norman, **they are 'closest to the case of a threat to one's life, because the danger with which the person is threatened is**, or may be, **similarly final and irreversible.**'4 No doubt, there are some grey areas here.5There is certainly room for disagreement, for example, about whether an attack on one's property by a burglar or the amputation of one's fingers by an attacker is sufficiently critical that self-defense is a reasonable justification for killing the burglar or attacker. But there is no doubt, too, that not all cases come in shades of grey. Neither common morality nor the law expects you to sacrifice your life rather than take the chance of killing your attacker, but neither are you required to lose your limbs, or your hearing or your eyesight even when the only way to protect yourself from the person who is intent on destroying one of these is to kill him. In short, **self-defense extends to parts of yourself that are integral to you; your life is important, but it does not comprise all that is important** or importantly defended, **even by recourse to homicide.** Of course, it may be that the extent to which the gravity of a prospective injury must be taken into account before self-defensive homicide is morally justified may be dependent on other features of the situation. Later I shall suggest that this is so, and why.

Threat of being “outed” means LGBT victims can’t go anywhere else for help. Hodges -2

Krisana M. Hodges, [Tulane School of Law, J.D., 2000. Professor of Law and Sexuality at University of California, Hastings College of the Law], “Trouble in Paradise: Barriers to Addressing Domestic Violence in Lesbian Relationships”, 9 Law & Sexuality Rev. Lesbian Gay Bisexual & Legal Issues, 311 2000. RK

A lesbian battered woman may reasonably fear losing her job with no legal recourse if her sexuality is publicly exposed.6" Claire Renzetti found in her research with lesbian battered women that twenty-one percent of the respondents reported that their partners had threatened to out them. Several respondents stated that they quit their jobs before their partners carried through on the threat to out them at work, explaining that they felt they could find another job more easily than if they were outed, subsequently fired or laid off, and perhaps surreptitiously blacklisted by an employer.6 **Domestic violence thrives on secrecy. All domestic violence victims**, regardless of gender or sexual orientation, "**come out" when they reach out for help and protection from the courts. Lesbian victims of same-sex domestic violence must not only "come out" as battered women, they must also "come out" as lesbians in order to access legal protections** for victims of intimate partner abuse**.** By "coming out" as a lesbian in order to seek protection as a battered woman, the victim must first wade through the fears that contributed to her silence and alienation**.**6 ' **A woman who comes forward must reasonably expect that the proceedings will be public or that the court may inquire into the details of her relationship**.68 **Being "out" in court may expose her to harassment because of her sexual orientation, or further abuse from her partner**.69 "In theory, a plaintiff should not have to choose between obtaining legal relief from abuse and disclosing an aspect of... her life that could have a negative impact on employment and other personal relationships. However, as a practical matter, that is often the choice that must be made. 70]

# Fairness Ext

There is equal reason to prefer both lives, but the principle of fairness tips the scale.

Segev

The principle of fairness reflects the rational power of persons by making them accountable for choices. We should prefer the life of the victim because all else being equal, they are not responsible.

Weighing- fairness is the most important feature of morality. Wallace:

Wallace, R. Jay. [Professor of Philosophy at U.C. Berkeley], Responsibility and the Moral Sentiments, 1994, 103-104. JMN

But there is some independent reason to suppose that the considerations of fairness on which the incompatibilist relies have the force of obligations, rather than appeals to a species of moral value. On the internal interpretation, the incompatibilist position is meant to be based on the kinds of moral reason that are invoked in moral practice, to support particular normative conclusions. So, for instance, the incompatibilist might say that it would be unfair to hold people responsible, if determinism is true, in just the way that it would be unfair to blame a person for an action that resulted from physical constraint, or to hold infants or the insane fully accountable. But in cases of this sort, it seems, considerations of fairness have the force of obligations. To blame a person for bodily movements that result from her being pushed, or to hold an infant or an insane person accountable--these seem not merely bad or undesirable, from the moral point of view, but wrong. This suggests that considerations of fairness, as they enter into the incompatibilist argument, should be seen as generating obligations and not merely identifying modalities of moral value.

Means that fairness comes before their fw because it is the basis by which we determine whether or not to hold someone responsible for an action in the first place regardless of which ethical theory we adopt.

# Intuitions Frontlines

A2 reliability:

[1) I defend a form of revisionary intuitions - this de-links their objections about reliability because we should revise our theories to make them more reliable

2) D.B. a) intuitions are unreliable b/c it can’t be verified but neither can our mental states then. Their arg commits them to radical skep. – which would affirm under the mcnamara definition at the top. Or b) they don’t defend radical skep – which means their objection is non-unique and you accept intuitions]

[A2 “not everyone agrees on this intuition”

1) Just as we can’t persuade someone who is colorblind that red looks more like orange than it looks like blue, doesn’t mean that our intuition is suspect. Just means you are dealing w/ an anomaly.]

[A2 “intuition is subjective”

1) misunderstanding of intuition. – just a means of cognizing moral truths. Does not create moral truths, any more than perception creates truths about physical world.

2) non-unique – true of all kinds of beliefs - justification for perceptual beliefs depends upon one’s perceptual experiences. Justification of beliefs depends upon one’s memories.

[A2: natural selection:

a)natural selexn can’t offer a complete explanation of why we have our normative beliefs when those beliefs are not reproductively advantageous. Caring about distant future generations, sacrificing my well-being for others – natural selexn can’t explain why we have these beliefs

b) natural selexn gave us the ability to perceive mathematical truths, but an evol explanation of why I believe 2+2 =4 is inadequate. Part of the explanation must be the fact that that I am mathematically competent. Same applies in ethics. When I perceive correctly that I have a resn to relieve your agony, part of the explanation is that I have learned from the experience of pain that it is bad.

# FW EXT

A] There is equal reason to prefer the life of both the attacker and the victim in self-defense cases, so valuing either would be permissible. But, the principle of fairness tips the scale. Segev:

Re’em Segev, [Professor of Law at Hebrew University of Jerusalem], “Fairness, Responsibility, and Self-Defense”, [Santa Clara Law Review, Vol. 45, No. 2, pp. 383-460, 2005](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=756947#%23). RK

The Principle of Fairness*: Responsibility*, a second aspect of the concept of fairness, reflects the rational power of persons by making them accountable for their choices. It holds that the responsibility of a person for an interpersonal conflict is a reason that he, rather than another person, would bear the burden or enjoy the benefit involved in the resolution of the conflict**.** (Interpersonal conflicts might involve burdens, benefits or both.) The resolution of clashes between this reason and the reasons provided by the previous principles depends on the relative force of the clashing reasons, namely, on the importance of the competing interests, the relevant probabilities and the degree of responsibility of each person for the existence of the conflict….The resolution of interpersonal conflicts in which one person is responsible for the existence of the conflict, and particularly of the paradigm case of self-defense, should be thus as follows. When the competing interests are of equal importance, *The Well-Being Principle* provides two contrary reasons of equal importance, and *The* Equal Chance *Principle* thus provides [we have] a reason to accord each an equal chance to be preferred. However, this reason is outweighed by the reason reflected in The Principle of Fairness*: Responsibility*, to prefer the non-responsible person, if the degree of responsibility is significant (not trivial). Since this condition is met (by hypothesis) in the paradigm case of self-defense, The Principle of Fairness*: Responsibility* is thus the basis for the justification to harm the aggressor who is responsible for the conflict in order to save the non-responsible person.

# A2 Excuse Not Justified

1] Excusing conditions are not enough to capture the practicality principle. Frowe-2:

Hellen Frowe “A Practical Account of Self-Defence” Law and Philosophy (2010) 29:245-272 (Springer 09) FD

I think that this response fails to meet what I call the practicality requirement that attaches to accounts of permissible defence. Telling a person what he will or will not be blamed for is not the same as telling him what him is permitted to do. **Accounts that rely upon notions of blame and excuses forget that our primary concern in self-defence should lie in informing Victim’s deliberation** about what he is permitted to do**.** It is not suﬃcient to assure Victim that if he is not permitted, because it turns out that the gun wasn’t loaded, he will nonetheless be excused. This is partly because, as David Rodin points out, it is **only justiﬁcations and not excuses** that **ought to function in deliberation**. 8 And it is also because **one is excused for actions that were impermissible. This** **assurance,** then**, amounts to nothing more than the advice that Victim acts either permissibly or impermissibly**. And accounts like Quong’s require knowledge that Victim cannot have in order to tell the diﬀerence between those actions that are permitted, and those which are not**. If Victim is permitted to proceed only if X will kill him, and Victim cannot know whether X will kill him, it follows that Victim cannot know whether or not he is permitted to kill X. Such accounts fail**, in short, **to give any useful answer to the question of when one may use defensive force**. It might turn out, as a matter of luck, that Quong’s account will judge a given killing permissible. But such permissibility can only be established after the fact of defensive force. Indeed, even after the fact’ veriﬁcation might not be possible – how are we to know that Murderer would have killed Victim, if

Only justifications and not excuses htat ought to function in deliberations. Two warrants : 1) only function is deliberation. 2) can only be excused for axns that are impermissible.

2] Excusability is about culpability and permissibility is about acts or rules. Because the intuition is about self-defense as a rule, and not about particular agent’s circumstances, it’s about permissibility.

3] Self-defense is about justification under any ethical theory.

Stephen J. Morse, [Professor of Psychology and Law in Psychiatry at Pennsylvania Law School], “The Misbegotten Marriage of Soft Psychology and Bad Law: Psychological Self-Defense as a Justification for Homicide”, Law and Human Behavior, Vol. 14, No. 6 (Dec., 1990), pp. 595-618. RK

**Self-defense is a justification. An innocent actor who reasonably believes that he or she is the victim of imminent death or serious bodily harm may use protective deadly force**. The law holds that it is regrettable but comparatively desirable that an unlawful deadly aggressor should die rather than take the life of an innocent victim. **Even if the victim's life is not really threatened, the use of deadly force is still justified if the victim reasonably believes such force is necessary. The law cannot expect a person to calculate perfectly at the possible cost of his or her own innocentlife.**25

4] Self-defense is a justification not an excuse. Dressler:

Joshua Dressler, [Professor of Law, Wayne State University Law School], “Battered Women and Sleeping Abusers: Some Reflections”, *Ohio State Journal of Criminal Law (vol. 3, pp. 457 et seq., 2006. RK*

I submit that introduction of syndrome evidence to satisfy this third and essential feature of self-defense is undesirable. **Self-defense**, after all, **is a justification defense, not an excuse defense. The claim of a defendant pleading self-defense is that she has acted properly or, at least, not wrongfully, in doing what she did**. **She is not claiming, as she would be if she asserted the defense of insanity or any other excuse defense, that her conduct was wrongful but that she should not be blamed for her actions.**Put a little too simply**, justifications focus on the act; excuses focus on the actor**.13             Yet, BWS evidence—indeed, any syndrome evidence—speaks to the actor's state of mind, and not to the act itself. It explains to us why we should treat this actor differently than others, and not blame her when we would blame others who commit the same act.

# Intuitions Ext

A) Moral epistemology – we can never be 100% confident in a claim about ethics b/c we can’t make empirical observations about it. Armchair philosophy can always go wrong.

B) Conceptual analysis – the only candidates for 100% credence are definitions b/c the are analytical, they don’t state substantive truths. But disagreement about interpretations proves that even those are not 100%, so obviously more controversial claims will be overridden by intuitions.

c) Peer disagreement – if someone disagrees w/ u, your credence in the belief should be lower b/c you have reason to believe that you might be missing something, even if the possibility is small. There are at least some people who disagree with your FW like me, which means the credence is not 100%.

2] Self-defense is obviously justified under every ethical theory. Kaufman-2

Whitley R. P. Kaufman [Department of Philosophy University of Massachusetts], "Justified Killing: The Paradox of Self-Defense" Lexington Books (2009) FD

What is perhaps even more surprising is the widespread lack of attention to this problem. If one glances at any standard introductory textbook in ethics, one is likely to see chapters on all the classic topics regarding killing: capital punishment, abortion, enthusia, and so forth. Yet such books do not as a ruleinclude a chapter of self-defense. And in moral philosophy more generally there has long been a strange neglect of [self-defense].this topic on all sides**. Both major school of moral philosophy,** deontology and Consequentalism**, have usually ignored self- defense all together, as have the other schools of ethics,** apparently **taking it as so obviously justified that they need not attempt to explain why it is**

A2 reliability:

[1) I defend a form of revisionary intuitions - this de-links their objections about reliability because we should revise our theories to make them more reliable

2) D.B. a) intuitions are unreliable b/c it can’t be verified but neither can our mental states then. Their arg commits them to radical skep. – which would affirm under the mcnamara definition at the top. Or b) they don’t defend radical skep – which means their objection is non-unique and you accept intuitions]

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a)natural selexn can’t offer a complete explanation of why we have our normative beliefs when those beliefs are not reproductively advantageous. Caring about distant future generations, sacrificing my well-being for others – natural selexn can’t explain why we have these beliefs

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And If there are moral facts, we know them through intuition. Huemer:

**Huemer**, Michael. “Revisionary Intuitionism” Social Philosphy and Policy Foundation (2008)

How are these two principles — moral realism and the epistemological doctrine of intuitionism — related to each other? **Given moral realism, the correct evaluative judgments are independent of what our intuitions are**. Our having the intuition that *x* is wrong, no matter how many share the intuition, is compatible with *x*’s actually being permissible. **The relationship between our intuitions and the moral facts is**, in some important respects, **analogous to the relationship between our observations and the physical facts about our environment: physical facts exist independently of our observations, but observations are our way of knowing about the physical facts; the function of observation, which it usually fulfills, is to correspond to the physical facts. Similarly, moral facts exist independently of our intuitions, but intuitions are our way of knowing about the moral facts**; the function of ethical intuitions is to correspond to the moral facts. Sometimes our intuitions may deceive us, just as our senses may deceive us. Intuition may, in fact, be less reliable than sensory observa- tion; nevertheless, ***enough* of our intuitions are accurate that we can construct a substantial body of ethical knowledge**.

# A2 Proportionality

The right to homicidal self-defense extends to other harms besides death. Kasachkoff:

Tziporah Kasachkoff, [Professor of Philosophy at Ben Gurion University of the Negev & The Graduate Center, The City University of New York] “Killing in Self-Defense: An Unquestionable or Problematic Defense?”, Law and Philosophy, Vol. 17, No. 5/6 (Nov., 1998), pp. 509-531, RK.

The central issue in justified self-defensive homicide, then, is whether one acted to protect oneself. But what is it about ourselves that may legitimately be defended at the cost even of another person's life? Most clearly, a right of self-defense is a right to protect ourselves from being killed: if anything counts as protection of self, it is protection of our continued existence. But, as well, our notion of self extends beyond mere survival. **There are certain sorts of harms that so intrude on the integrity of one's self -** the harms, say, of **serious maiming,** or of **rape,** or of **kidnapping or** of **enslavement - that even when one is absolutely certain that one will not be killed it is unreasonable to disallow the same justifying appeal to self-defense that is accorded to would- be victims of lethal assaults.** Were we to kill someone who, though he isn't trying to kill us, is attempting to deafen and blind us, or to completely paralyze us, or to lobotomize us, our killing our attacker would still count as a legitimate killing in self-defense because of the seriousness of these assaults on one's person and because, in the words of Richard Norman, **they are 'closest to the case of a threat to one's life, because the danger with which the person is threatened is, or may be, similarly final and irreversible.**'4 No doubt, there are some grey areas here.5There is certainly room for disagreement, for example, about whether an attack on one's property by a burglar or the amputation of one's fingers by an attacker is sufficiently critical that self-defense is a reasonable justification for killing the burglar or attacker. But there is no doubt, too, that not all cases come in shades of grey. Neither common morality nor the law expects you to sacrifice your life rather than take the chance of killing your attacker, but neither are you required to lose your limbs, or your hearing or your eyesight even when the only way to protect yourself from the person who is intent on destroying one of these is to kill him. In short, **self-defense extends to parts of yourself that are integral to you; your life is important, but it does not comprise all that is important or importantly defended, even by recourse to homicide.** Of course, it may be that the extent to which the gravity of a prospective injury must be taken into account before self-defensive homicide is morally justified may be dependent on other features of the situation. Later I shall suggest that this is so, and why.

**Fear of death is a reasonable belief. Kyriacou**[[1]](#footnote-1)**:**

Domestic violence is the most common cause of nonfatal injury to women in the United States.1-3 Victims are pushed, punched, kicked, strangled, and assaulted with various weapons with the intent of causing pain, injury, and emotional distress.4 The lifetime risk of severe injury as a result of domestic violence has been estimated to be 9 percent for women, with a lifetime risk of up to 22 percent for any type of injury from domestic violence.5 The risk of death from domestic violence is also substantial; one third of the homicides of women in the United States are committed by a spouse or partner.6

B) The victim’s reasonable belief that deadly force is necessary is consistent with human equality. Ripstein:

Arthur Ripstein [Center for Human Values, Princeton University], "Self-Defense and Equal Protection" Pitt. L. Rev. 685 (1995-1996) HeinOnline. FD

On this Kantian view, **reasonableness is tied to the idea of equality**. The root idea is that **the reasonableness standard provides a like liberty for all compatible with a fundamental interest in the security of those things that are essential to protecting and exercising one's capacity for freedom**. So understood, the reasonableness standard does not reflect an abstract or empty formalism.10 **Legal systems that protect life and property are best thought of as seeking to treat individuals as equals in allowing the same liberty and security for all**. Which liberty and security interests are at the forefront will, in turn, inevitably reflect substantive views about what is most important to leading an autonomous life." While many states fail to protect some citizens adequately, the reasonableness standard provides the idea against which terms of social cooperation are to be judged.

*[And, they have to defend a specific alternative advocacy. The question of the debate is whether it’s necessary for agent’s to use deadly force. The only way to disprove this is by saying it’s unnecessary because of other options available to the victim. But it’s unfair for negative to defend multiple conditional options b/c*

*A] Strat skew*

*B] Reciprocity*

*If the negative doesn’t read a specific alternative course of action, then I automatically win the contention debate b/c the victim has no other option to compare deadly force to. ]*

Confrontational homicides should be included in debates

First is topicality:

Deliberate does not rule out confrontational killings --- all it requires is to knowingly cause the death of another despite the time period. Ulrich:

Justice Robert Ulrich [Missouri Court of Appeals], “State v. Miller”

"A person commits the crime of [murder in the first degree](http://www.duhaime.org/LegalDictionary/F/FirstDegreeMurder.aspx) if he knowingly causes the death of another person after deliberation upon the matter. **Deliberation** required for conviction for [murder in the first degree](http://www.duhaime.org/LegalDictionary/F/FirstDegreeMurder.aspx) **is defined as cool reflection for any length of time no matter how brief. The deliberation** necessary to support a conviction of [first-degree murder](http://www.duhaime.org/LegalDictionary/F/FirstDegreeMurder.aspx)**need only be momentary**; it is only necessary that the evidence show that the defendant considered taking another's life in a deliberate state of mind. A deliberate act is a free act of the will done in furtherance of a formed design to gratify a feeling of revenge or to accomplish some other unlawful purpose and while not under the influence of violent passion suddenly aroused by some provocation. Deliberation may be inferred from the circumstances surrounding the murder."

More evidence -- instantaneous killing is still referred to deliberate. Justice Heavican:

Justice Heavican [Supreme Court of Nebraska], “State v. McGhee”, 2007. FD

"*Deliberate* means not suddenly, not rashly, and requires that the defendant considered the probable consequences of his or her act before doing the act. "The term *premeditated* means to have formed a design to commit an act before it is done. "One kills with premeditated malice if, before the act causing the death occurs, one has formed the intent or determined to kill the victim without legal justification. "No particular length of time for premeditation is required, provided that the intent to kill is formed before the act is committed and not simultaneously with the act that caused the death. The time required to establish premeditation may be of the shortest possible duration and may be so short that it is instantaneous, and the design or purpose to kill may be formed upon premeditation and deliberation at any moment before the homicide is committed. A question of premeditation is for the jury to decide."

Legal usage is most predictable b/c the topic lit talks about what the courts say --- and social institutions model court’s usage of words. A] the research norm is the only predictable basis we have to prepare arguments which means it determines what the grounds should be for the debate b] crucial to actually solving domestic violence by advocating for legislation and creating coalitions to stop it.

And, majority of cases of domestic violence is confrontational. It’s ignorant to focus the debate on a tiny sliver of the domestic violence literature. Destroys our ability to become good advocates, create coalitions and stop domestic violence b/c we become ignorant of the victim’s perspective.

And, categorical burden uniquely bad a] allows neg to disprove the burden by PIC’ing out of any part of the aff creating unreciprocal burdens b] disincentivizes clash b/c they only have to disprove one minor portion of the aff c] key to combat side bias --- on-balance burden creates a level playing field. D] on-balance is the only middle ground between aff plans and hyper specific PICs, so it’s the best compromise in an LD world where there’s no consensus on burdens before the debate.

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More evidence -- instantaneous killing is still referred to deliberate. Justice Heavican:

Justice Heavican [Supreme Court of Nebraska], “State v. McGhee”, 2007. FD

"*Deliberate* means not suddenly, not rashly, and requires that the defendant considered the probable consequences of his or her act before doing the act. "The term *premeditated* means to have formed a design to commit an act before it is done. "One kills with premeditated malice if, before the act causing the death occurs, one has formed the intent or determined to kill the victim without legal justification. "No particular length of time for premeditation is required, provided that the intent to kill is formed before the act is committed and not simultaneously with the act that caused the death. The time required to establish premeditation may be of the shortest possible duration and may be so short that it is instantaneous, and the design or purpose to kill may be formed upon premeditation and deliberation at any moment before the homicide is committed. A question of premeditation is for the jury to decide."

1. Demetrios N. Kyriacou, M.D., Ph.D., Deirdre Anglin, M.D., MPH, Ellen Taliaferro, M.D., Susan Stone, M.D., Toni Tubb, M.D., Judith A. Linden, M.D., Robert Muelleman, M.D., Erik Barton, M.D., and Jess F. Kraus, Ph.D., MPH. “Risk Factors for Injury to Women from Domestic Violence”, The New England Journal of Medicine, 1999. [↑](#footnote-ref-1)